

**Amendment to Contract
DE-CR01-83 NE44405 Between U.S. Department of Energy and PECO
Energy Company**

This is an Amendment to Contract No. DE-CR01-83NE 44405, as amended, (hereinafter the "44405 Contract"), and is agreed to this 19 day of July, 2000 by the United States of America represented by the Department of Energy (DOE) and PECO Energy Company (formerly known as Philadelphia Electric Company) ("PECO Energy"), acting on behalf of itself and Public Service Electric and Gas Company, Delmarva Power and Light Company and Atlantic Electric Company, joint owners of Peach Bottom Atomic Power Station Units 2 and 3, in accordance with the terms and conditions set forth herein.

This Amendment between PECO Energy and DOE amends and supplements the 44405 Contract. Except to the extent provided in this amendment, the prior obligations of PECO Energy and DOE under the 44405 Contract, therefore, remain in effect. DOE remains obligated to transfer Peach Bottom Spent Nuclear Fuel and/or High-Level Radioactive Waste ("SNF/HLW") to a repository per the Removal Allocation as defined in Article I, below, upon initiation of repository operations. Unless otherwise stated or modified herein, the 44405 Contract is incorporated herein by reference. Those Articles of the 44405 Contract not specifically modified by this Amendment remain unchanged.

Notwithstanding subsequent change in law, each term of this Amendment is binding on, and inures to the benefit of, PECO Energy and DOE and their respective successors, transferees, assigns, affiliates, representatives, principals, agents, officers, directors, and employees.

RECITALS

Whereas, on June 1, 1983 DOE and PECO Energy entered into the 44405 Contract for disposal of SNF/HLW generated by the Peach Bottom Atomic Power Station ("Peach Bottom SNF/HLW"); and

Whereas, DOE has been delayed in beginning the performance of its disposal obligation under that Contract, and DOE and PECO Energy agree that PECO Energy has incurred certain costs resulting from DOE's delay, and that PECO Energy will continue to incur additional costs for ongoing management of this Peach Bottom SNF/HLW; and

Whereas, the U.S. Court of Appeals for the District of Columbia Circuit held in Northern States Power Co. v. United States Department of Energy,

128 F. 3d 754 (D.C. Cir. 1997), cert. denied, 119 S. Ct. 540 (1998), that DOE's delay was avoidable, and therefore, PECO Energy would be entitled to pursue a request for equitable adjustment against the United States pursuant to Article IX.B of the 44405 Contract, which expressly allows DOE to adjust charges and schedules to address issues arising from avoidable delays; and

Whereas, DOE and PECO Energy hereby agree that settlement of PECO Energy's potential claim, by this Amendment of the 44405 Contract, is in the interest of both parties; and

Whereas, DOE plans to design, construct, and operate a repository with an annual acceptance capacity in excess of that stated in the 1995 Annual Capacity Report and, once this facility opens, DOE intends to maximize the annual acceptance rate; and

Whereas, after completing site characterization and assuming site recommendation in 2001, DOE currently plans to begin disposal of SNF/HLW at an operational repository in year 2010; and intends to operate the repository at a steady-state capacity of 3,000 MTUs beginning in year 2014, as described in the *Viability Assessment of a Repository at Yucca Mountain*, (DOE/RW-0508), December 1998; and

Whereas, DOE agrees to use reasonable efforts to manage the Nuclear Waste Fund to minimize the potential of increasing the one (1) mill per kilowatt hour fee, consistent with current law; and

Whereas, DOE represents that all provisions to this Amendment are lawful and enforceable and that it has authority to enter into this Amendment, such authority including the DOE Organization Act, Pub. L. 95-91, 42 U.S.C. 7101, et seq.; and the Nuclear Waste Policy Act of 1982, Pub. L. 97-425, 42 U.S.C. 10101, et seq.; and other statutes; and

Whereas, certain conditions, commitments and agreements in this Amendment may also be subject to the Anti-Deficiency Act, 31 U.S.C. 41, et seq.

NOW, THEREFORE, in consideration of the promises, mutual covenants and agreements set forth herein, PECO Energy and DOE hereby agree as follows:

ARTICLE I. DEFINITIONS

The definitions set forth in the original 44405 Contract remain in effect unless specifically amended herein. The following definitions are added to Article I of the 44405 Contract:

- A. **"Acceptance Allocation"** means that portion of the Acceptance Schedule allocated to Peach Bottom SNF/HLW and which provides the basis for any compensation made to PECO by DOE under this Amendment.
- B. **"Acceptance Schedule"** means the schedule prepared by DOE for acceptance of financial responsibility for management of commercially-generated SNF/HLW solely for the purposes of this Amendment only that incorporates the schedule for steady state acceptance of 900 MTU/yr. (*Acceptance Priority Ranking and Annual Capacity Report*, DOE/RW - 0457, March 1995) and extended at that constant rate beyond that published schedule.
- C. **"Allowable Costs"** means those costs incurred by the Purchaser for managing Peach Bottom SNF/HLW that the Purchaser would not have incurred but for, and are directly related to, DOE's delay in performance of its disposal obligation.
- D. **"Allowable and Reasonable Costs"** means those costs that meet both the definitions of "Allowable Costs" and "Reasonable Costs".
- E. **"Cost Objective"** means a function, organizational subdivision, contract, or other work unit for which cost data are desired and for which provision is made to accumulate and measure the cost of processes, products, jobs, capitalized projects or other similar tasks or items.
- F. **"ISFSI"** means an Independent Spent Fuel Storage Installation that is licensed by the Commission for the dry storage of SNF/HLW.
- G. **"Manage Peach Bottom SNF/HLW"** means all of those activities necessary to possess and maintain the Peach Bottom SNF/HLW in accordance with applicable federal, state and local laws and regulations.
- H. **"Peach Bottom ISFSI"** means the ISFSI facility, exclusive of any underlying real property, located in Delta, York County, Pennsylvania, constructed by PECO Energy to manage the Peach Bottom SNF/HLW.
- I. **"Peach Bottom ISFSI Property"** means the designated portion of the Peach Bottom Atomic Power Station Site in York County, Pennsylvania on which the Peach Bottom ISFSI is located.

- J. **"Peach Bottom SNF/HLW"** means the SNF/HLW generated in or by the operation of the Peach Bottom Atomic Power Station.
- K. **"Purchaser"** refers to PECO Energy Company, formerly known as Philadelphia Electric Company, its successors, transferees, assigns, representatives, affiliates, principals, agents, officers, directors and employees;
- L. **"Reasonable Costs"** mean:
1. Those costs that, in their nature and amount, do not exceed those that would be incurred by a prudent person or entity in the conduct of competitive business. What is "reasonable" depends upon a variety of considerations and circumstances, including whether a cost --
 - a. is the type generally recognized as ordinary and necessary for the conduct of the Purchaser's business or the contract performance;
 - b. is consistent with generally accepted sound business practices, arm's length bargaining, and federal and state laws and regulations;
 - c. is part of the Purchaser's responsibilities to the Government, other customers, the owners of the business, employees and the public at large;
 - d. is incurred in accordance with the Purchaser's established business practices; and
 2. Those costs that are allocable, i.e., assignable or chargeable to one or more cost objectives on the basis of relative benefits received or other equitable relationship, and:
 - a. are incurred specifically as a result of the delay in performance; or
 - b. are attributable to both the delay in performance and other work, and can be distributed to them in reasonable proportion to the benefits received; or
 - c. are necessary to the overall operation of the business, although a direct relationship to any particular cost objective cannot be shown; and

3. If an initial review of a claim by Purchaser results in a challenge of specific cost by the Contracting Officer, the burden of proof shall be upon the Purchaser to establish that such cost is reasonable.
- M. **"Removal"** means to physically take away Peach Bottom SNF/HLW from the Peach Bottom Atomic Power Station or an ISFSI site.
- N. **"Removal Allocation"** means that portion of the Removal Schedule that specifies the schedule for the transport of Peach Bottom SNF/HLW to an operational repository.
- O. **"Removal Schedule"** means the industry-wide schedule prepared by DOE for the removal of SNF/HLW from commercial sites for transport to an operational repository.
- P. **"44405 Contract"** means Contract No. DE-CR01-83NE 44405 between the United States of America represented by the Department of Energy, and Philadelphia Electric Company (now known as PECO Energy Company), acting on behalf of itself and the joint owners of Peach Bottom Atomic Power Station Units 2 and 3, entered into on June 1, 1983, and all subsequent amendments and modifications thereto.

ARTICLE II. SCOPE

Except as provided herein, the Scope of the 44405 contract is not amended.

ARTICLE III. TERM

Article III of the 44405 Contract is amended by adding at the end the following:

The term of this contract Amendment shall be from execution until completion of all obligations under the Contract, as amended.

ARTICLE IV. RESPONSIBILITIES OF THE PARTIES

Article IV Section B of the 44405 Contract, DOE Responsibilities, is amended by adding at the end of Subsection 5 the following:

6. In exchange for Purchaser's release of claims as set forth in Article XI, Section A, DOE shall compensate Purchaser for the Allowable and Reasonable Costs incurred as a result of DOE's delay in performance of its disposal obligation for Peach Bottom SNF/HLW. DOE shall reimburse the

Purchaser using the Peach Bottom Atomic Power Station's Acceptance Allocation as set forth in Article IX, Section C.1, Acceptance Allocation, of this Amendment to calculate the amount of SNF/HLW that is the financial responsibility of DOE.

7. DOE agrees that if any legal action, claim, lawsuit, or other proceeding, including one before an administrative agency, is initiated by any person involving this Amendment alleging that the Amendment, or any portion of this Amendment is unlawful, DOE shall take all reasonable steps that are necessary to defend this Amendment in its entirety.
8. In the event that a court orders or legislation provides that DOE utilize more beneficial schedules, allocations, or funding sources that are applicable to a group of similarly situated signatories to the Standard Contract than DOE has provided to the Purchaser, DOE shall, at the Purchaser's request, re-negotiate in good faith the terms of this Amendment. If the Purchaser is reimbursed for adjustments to charges already received by DOE from an alternative funding source, the Purchaser agrees to reimburse the Nuclear Waste Fund the amount of the reimbursement.

ARTICLE V. DELIVERY OF SNF AND/OR HLW

Article V of the 44405 Contract is amended by adding to the end of Section E, Exchanges, the following:

Provided that the Purchaser does not significantly increase DOE's costs, or adversely impact other Purchasers, and upon no less than twelve (12) months written notice to DOE, the Purchaser shall be permitted to exchange Peach Bottom Atomic Power Station Removal Allocations with those of other nuclear units or other Purchasers.

ARTICLE VII. TITLE

The title of Article VII of the 44405 Contract is amended to read **"TITLE AND POSSESSION"**.

Article VII is amended by inserting the letter "A" before the existing Section and adding the title "Disposal" before the text. At the end of Section A, the following sections are added:

- B. **Transfer of Title.** Subject to the conditions and limitations listed below, DOE shall take title to Peach Bottom SNF/HLW, the storage casks and the Peach Bottom ISFSI in which they are stored in accordance with

the Acceptance Allocation in Article IX, Section C.1, Acceptance Allocation, of this Amendment:

1. For dry storage only, DOE shall only take title to Peach Bottom SNF/HLW that is contained in a dual-purpose cask system certified by the Commission for storage and transport under 10 CFR Parts 71 and 72;
2. DOE shall not take title to, or assume any responsibility for, any SNF/HLW storage pools;
3. If DOE takes title to the Peach Bottom SNF/HLW, the storage casks or the Peach Bottom ISFSI in which they are stored, DOE shall not be immediately obligated to take physical possession of any of them. In the event that DOE takes title to the SNF/HLW or SNF/HLW in casks, PECO Energy shall allow such SNF/HLW or SNF/HLW in casks to remain at its then current location until it is removed in accordance with the Removal Schedule;
4. The Purchaser shall provide DOE at least eighteen (18) months written notice of its desire for DOE to take title to the Peach Bottom SNF/HLW, casks or Peach Bottom ISFSI;
5. Upon transfer of title, Peach Bottom's allocation in the Removal Schedule for that SNF/HLW then-titled to DOE shall transfer to DOE. Peach Bottom's SNF/HLW shall retain its position in the Removal Schedule;
6. The Purchaser shall remain the operator and the Commission licensee of the Peach Bottom ISFSI and shall maintain, keep current and comply with applicable federal, state and local licenses, permits, and requirements. As part of this responsibility, the Purchaser shall continue to be responsible for all public and regulatory interactions with respect to issues of compliance with these federal, state and local licenses, permits and requirements;
7. DOE shall not store any SNF/HLW other than Peach Bottom SNF/HLW at the Peach Bottom ISFSI;
8. DOE shall not take title to the Peach Bottom SNF/HLW, the casks or the Peach Bottom ISFSI until DOE and the Purchaser have agreed in writing to the specific terms and conditions of the transfer of title, including but not limited to:

- a. The technical and legal description and boundaries of the ISFSI and its contents, as well as an environmental baseline; and
 - b. Each party's responsibility for liabilities that may be incurred subsequent to such transfer of title;
9. In the event DOE takes title to the Peach Bottom ISFSI, the Purchaser shall continue to own the real property upon which the Peach Bottom ISFSI is located. In that event and intending to be legally bound hereby, DOE shall lease the Peach Bottom ISFSI land from the Purchaser for one dollar (\$1.00) as good and valuable consideration;
10. If DOE determines it does not have legal authority to take title to the Peach Bottom SNF/HLW, casks and/or the Peach Bottom ISFSI, DOE agrees that no later than twelve (12) months following the Purchaser's written request for title transfer, DOE shall request that authority from Congress and make all reasonable efforts to obtain such authority; and
11. Nothing in this Article shall preclude the Purchaser's storage of other SNF/HLW at the Peach Bottom ISFSI as long as the Purchaser complies with applicable federal, state and local laws and regulations.

C. Transfer of Physical Possession.

1. Upon written request by the Purchaser, DOE shall make all reasonable efforts to become the title holder, owner, operator and NRC licensee of the Peach Bottom ISFSI and its contents no later than five (5) years after permanent shutdown of the last operating unit at Peach Bottom Atomic Power Station, but no sooner than five (5) years after the full term of the original forty (40) year operating license (year 2019), contingent upon the following conditions and limitations:
 - a. The Purchaser gives DOE at least five (5) years written notice of its intent to transfer to DOE the NRC license, ownership and physical possession of the Peach Bottom SNF/HLW, casks and Peach Bottom ISFSI; and
 - b. DOE and the Purchaser agree in writing to the specific terms and conditions of the physical transfer and responsibilities of the parties for future actions, including but not limited to:

- (1) Actions such as transfer of equipment, personnel, and all other activities inherent in the transfer of physical possession and responsibility for operations of the Peach Bottom ISFSI; and
 - (2) The technical and legal description and boundaries of the ISFSI and its contents as well as an environmental baseline; and
 - (3) Each party's responsibility for liabilities that may be incurred subsequent to such transfer of possession; and
 - (4) Fiscal and operational responsibilities of each party for decontamination and decommissioning of the Peach Bottom ISFSI;
 - c. The Purchaser agrees to obtain a fully compliant and current Peach Bottom site-specific Commission license under the provision of 10 CFR Part 72. The Purchaser shall assist DOE in obtaining Commission approval for transfer of the site specific 10 CFR Part 72 license to DOE; and
 - d. Any adjustment to previously authorized adjustments to charges to account for DOE's early acceptance of SNF/HLW when possession is transferred from Purchaser to DOE in advance of the Removal Allocation shall be negotiated and completed before the transfer of possession is made.
2. DOE and the Purchaser agree that the land on which the Peach Bottom ISFSI is located will be returned to "unrestricted use" in accordance with 10 CFR Part 20 and decontamination and decommissioning will be completed within two (2) years after removal of all Peach Bottom SNF/HLW.
 3. DOE's plan to assume operation of the Peach Bottom ISFSI, as described in the Sections above, is contingent upon the availability of funds appropriated for that purpose, and any other conditions or limitations set by law. Upon a timely written request by the Purchaser for DOE to take possession of the Peach Bottom ISFSI, DOE shall request the funds necessary to take possession of the Peach Bottom ISFSI and make all reasonable efforts to obtain such funding.

ARTICLE VIII. FEES AND TERMS OF PAYMENTS

Article VIII of the 44405 Contract is amended by adding to the end of Section E, Audit, the following paragraph 4, and adding the following Sections F and G:

4. Right to Audit Allowable and Reasonable Costs Underlying Applications for Credits. Notwithstanding any other audit rights provided under the 44405 Contract, DOE or its representative shall have the right at reasonable times and reasonable places to audit any directly pertinent books, documents, papers, and records of the Purchaser related to requests for Allowable and Reasonable Costs that the Purchaser submits for fee credits, and the Purchaser shall retain such cost data for seven (7) years from the date of the submittal.
- F. Reimbursement of Allowable and Reasonable Costs. DOE shall compensate the Purchaser for the Allowable and Reasonable Costs incurred to manage Peach Bottom SNF/HLW, according to the following:
1. Adjustments to Charges. Reimbursement by DOE of the Purchaser's Allowable and Reasonable Costs shall be made in the form of adjustments to charges against future fees payable to the Nuclear Waste Fund pursuant to Article VIII Section B.1, Payment, of the 44405 Contract;
 2. Pooling of Adjustments to Charges and Debits by the Purchaser. If DOE agrees to other contract amendments that settle or resolve Purchaser's potential claims for Allowable and Reasonable Costs due to DOE's delay in performance of its disposal obligation under other contracts at other Purchaser-affiliated nuclear sites, the adjustments to charges due under this Amendment to the 44405 Contract for Peach Bottom Atomic Power Station may be applied against the total fees due to the Nuclear Waste Fund from all such contract amendments;
 3. Adjustments to Charges Exceeding Payment Obligations. If, after permanent shutdown of all Purchaser-affiliated nuclear units for which the Purchaser has executed with DOE a contract Amendment resolving issues arising from DOE's delay in performance of its disposal obligations, DOE owes adjustments to charges to the Purchaser that exceed in dollar value the fees due the Nuclear Waste Fund from the Purchaser or other Purchaser-affiliated nuclear units, but no earlier than the full term of the original forty (40) year operating license for the above-referenced nuclear units, DOE agrees to include a request for those funds necessary to provide for the direct payment of additional credits due to the Purchaser and use all reasonable efforts to obtain such funds; and

4. Adjustment of Adjustments to Charges. Adjustments to Charges shall be modified in accordance with the Consumer Price Index - All Urban Consumers ("CPI") to reflect inflation from the date of expenditure to the date the credit is taken.
- G. Application for Adjustment to Charges. The Purchaser shall submit to DOE a written application for adjustments to charges to its fees due to the Nuclear Waste Fund. The application shall be submitted to the Contracting Officer in the form and format agreed to by the Parties. The application must be signed and certified as per the requirements of Article XVI Section B, Disputes. The Contracting Officer shall make a determination as to the amount of the adjustments to charges authorized no later than 180 days after receipt of a certified application for adjustments to charges.
- H. Allowable Cost Categories. The parties agree that the costs associated with the following categories are Allowable Costs under this Amendment. Any additional Allowable Cost categories shall be mutually agreed to by the parties. A determination of whether such costs are Reasonable Costs will be made by the Contracting Officer after receipt of supporting documentation from the Purchaser. Based on the certified documents submitted on June 26, 2000, by the Purchaser, DOE has determined that the Allowable Cost categories include but are not limited to:
1. Storage slab, bridge and retaining walls;
 2. Security system at ISFSI;
 3. Security system at Protected Area Boundary;
 4. Unit 1 modifications;
 5. Unit 2 and 3 cask pit modifications;
 6. Inside plant modifications; *unit 2 + 3*
 7. ISFSI project access road; *DAW*
 8. Procurement of spent fuel storage ~~cases~~ and associated equipment; *casks* and *DAW*
 9. Atom Road bridges. *9D*

ARTICLE IX. DELAYS

Article IX of the 44405 contract is amended by adding at the end of Section B, the following:

C. Adjustment of Schedules.

1. Acceptance Allocation. The Acceptance Allocation is hereby adjusted to the following:
 - a. Through the calendar year 2007: As currently allocated under the 1995 Acceptance Priority Ranking & Annual Capacity Report, Appendix B, Tables B.1 through B.10 (DOE/RW-0457); and
 - b. For calendar years 2008 and continuing until the conditions of Section C.1.c below are satisfied, the Acceptance Allocation for Peach Bottom Atomic Power Station only shall be based upon an Acceptance Schedule of 900 MTU/year utilizing the principle of "Oldest Fuel First" and the Acceptance Priority Ranking as published in Appendix A of the above-referenced Report. The Acceptance Allocations are:

<u>Calendar Year</u>	<u>MTUs</u>
2008	52.0
2009	-
2010	53.3
2011	-
2012	51.7
2013	-
2014	-
2015	84.7
2016	-
2017	-
2018	-
2019	-
2020	-

Should additional Acceptance Allocations be required under this Amendment, they shall be determined by DOE consistent with the above method.

- c. The Acceptance Allocations shall continue until the cumulative amount of Peach Bottom SNF/HLW removed by DOE or otherwise utilized by the Purchaser equals the cumulative Peach Bottom Acceptance Allocations as measured in MTUs.
 - d. These Acceptance Allocations may not be exchanged with acceptance allocations for any other nuclear units.
 - e. If DOE does not begin removal of fuel from Peach Bottom Atomic Power Station by December 31, 2017, DOE and the Purchaser shall meet as soon as possible to determine what, if any, adjustments to the Acceptance Schedule are warranted.
2. Removal Allocation. The Parties agree that the following Removal Allocations are targets only, and do not create any binding legal obligation upon DOE.
- a. Consistent with plans published in the *Viability Assessment of a Repository at Yucca Mountain*, (DOE/RW-0508), December 1998, DOE intends to begin repository operations by 2010 and to operate the repository with the following target annual acceptance capacity:

2010	400 MTUs
2011	600 MTUs
2012	1,200 MTUs
2013	2,000 MTUs
2014 and beyond	3,000 MTUs per year
 - b. DOE intends to allocate Removal Allocations to Peach Bottom in accordance with the principle of "Oldest Fuel First," as provided in Article IV.B.5(a), DOE Responsibilities, utilizing the most current industry discharge information available at the time for development of the Acceptance Priority Ranking. This method is consistent with the basis for development of the Acceptance Priority Ranking and the Annual Capacity Report utilized in the 1995 Acceptance Priority Ranking & the Annual Capacity Report (DOE/RW-0457). Application of this method results in the following expected, but not assured Removal Allocations:

Calendar Year
2010

MTUs
-

2011	-
2012	36.3
2013	164.4
2014	143.4
2015	102.8
2016	105.0
2017	84.7
2018	-
2019	29.2
2020	95.7

3. If DOE determines that it shall be unable to meet the above Removal Allocation, DOE and the Purchaser shall meet as soon as possible to negotiate a revised Removal Allocation.
4. The SNF/HLW shall be removed from the Peach Bottom spent fuel pools or the Peach Bottom ISFSI, whichever location is, on balance, most beneficial to the parties.

ARTICLE XI. REMEDIES

Article XI is amended by inserting the letter "B" before the existing Section in that Article and inserting before that Section B the following Section A:

A. Release of Claims Related to the January 31, 1998 Date.

1. The Purchaser hereby releases and discharges DOE from any and all claims it may have arising out of the 44405 Contract relating to DOE's delay in performance of its disposal obligations for Peach Bottom SNF/HLW; provided, however, that nothing herein shall release DOE from claims arising from failure to perform or the breach of any other obligation not directly related to the delays in removing SNF/HLW from Peach Bottom Atomic Power Station under the 44405 Contract, or for failure to perform or the breach of any obligation under this Amendment.
2. The Purchaser agrees that in exchange for reimbursements, adjustments to charges, schedule modifications, payments and any other valuable consideration to be provided by DOE as described in this Amendment, the Purchaser waives any right it may have to submit a claim or file suit for any remedy, either legal or equitable, based upon DOE's delay in performance of its January 31, 1998 disposal obligation.
3. Nothing in this Amendment shall be construed to affect or abrogate any rights that the Purchaser or DOE may have to seek judicial or other relief regarding any other breach, claim, demand, dispute or any other contractual issue in controversy relating to the 44405 Contract, this Amendment, or any subsequent amendments, nor shall this Amendment be construed to affect or abrogate DOE's and the Purchaser's rights under Article XVI, Disputes, of the 44405 Contract.

ARTICLE XIII. REPRESENTATION CONCERNING NUCLEAR HAZARDS INDEMNITY

Article XIII is amended by adding at the end of Section B the following:

- C. DOE shall provide the Purchaser with full and complete coverage and indemnity under the Price Anderson Act, as amended, 42 U.S.C. 2210, et seq. (Section 170(d) of the Atomic Energy Act of 1954, as amended), for activities the Purchaser carries out for DOE under this Amendment if Price Anderson coverage is not provided by the Commission under subsections (b), (c), or (k) of the Act;

- D. In consideration of DOE's providing indemnification to the Purchaser under the Price Anderson Act, the Purchaser shall take steps necessary to ensure that DOE is provided copies of all correspondence between the Purchaser and the Commission regarding the ISFSI. In addition, the Purchaser shall notify DOE immediately (in accordance with the time frames required by the Commission) of any situation which the Purchaser determines could trigger an indemnification liability to DOE under the Price Anderson Act.

ARTICLE XVI. DISPUTES

Article XVI is amended by re-lettering Section "A" as Section "C", re-lettering subsequent sections accordingly, and inserting before Section C the following:

- A. Consistent with the goals set forth in the Administrative Dispute Resolution Act (5 U.S.C. 571, et seq.), DOE and the Purchaser agree to make reasonable efforts to resolve by mutual agreement all contractual issues in controversy, whether such issues are of law or of fact.
- B. Alternative Methods of Dispute Resolution. In the event that the parties to this Amendment disagree about the interpretation of this Amendment, including but not limited to whether costs are Allowable and Reasonable, the parties agree to make a good faith effort to resolve their differences informally through non-binding mediation, non-binding arbitration or other non-binding alternative dispute resolution method. Any such facilitation shall be conducted by third party non-governmental mediator(s) or neutral(s) who shall be selected and mutually agreed to by both parties. The facilitation process shall be agreed to by both Parties. Written notice by either party to the other of any such alternative method of dispute resolution process shall toll any applicable appeal periods relating to this Amendment and the 44405 Contract. DOE and the Purchaser shall equally share all alternative dispute resolution costs.

Article XVI is also amended by adding after new Section F the following new sections:

- G. Unless otherwise agreed to by both Purchaser and DOE, the Contracting Officer will render a final decision on any dispute associated with this Amendment within one hundred eighty (180) days from the receipt of written notice of such dispute from the Purchaser.
- H. This Amendment prevails over any prior communications, written or otherwise, regarding the matters contained herein between the Purchaser and DOE or their representatives. This Amendment is an integrated

document that amends the 44405 Contract. No representations, warranties, or promises have been made or relied upon by either party other than those set forth herein and in the 44405 Contract. This Amendment may not be altered, supplemented or modified except by a written instrument signed by the duly authorized representatives of the Purchaser and DOE.

- I. Should any portion, or portions, of this Amendment be found or declared unenforceable or void by any court or competent tribunal for any reason, DOE and the Purchaser agree to negotiate in good faith and attempt to reach an enforceable agreement consistent with the spirit and purpose of this Amendment. Should a court or competent tribunal declare a major term or condition of this Amendment void and unenforceable, and DOE and the Purchaser cannot reach a subsequent agreement, this entire Amendment is rendered null and void, the original 44405 Contract remains in effect and the Parties shall return to pre-Amendment status.

ARTICLE XXII. ENTIRE CONTRACT

Article XXII is amended by adding at the end the following:

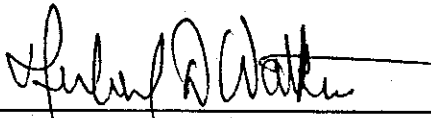
- C. DOE and the Purchaser agree that the aforementioned provisions constitute the entire terms and conditions of this Contract Amendment.


APPENDICES

Appendix E – General Specifications

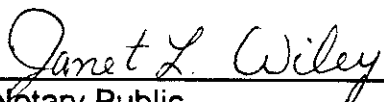
Appendix E, Section B.2, Nonfuel Components, is amended by inserting "control blades," after the phrase "control rod elements".

IN WITNESS WHEREOF, DOE and PECO Energy have executed this Agreement by each of their duly authorized respective representatives.

By: 
Herbert D. Watkins
Title: Contracting Officer
Office of Headquarters, Procurement Services
United States Department of Energy

By: 
John Doering, Jr.
Title: Vice President, Peach Bottom Atomic Power Station

Sworn to and subscribed
before me this 19th day
of July, 2000.


Notary Public

STATE OF PENNSYLVANIA

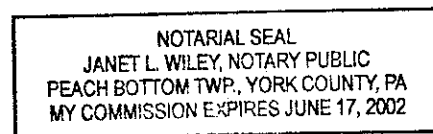
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COUNTY OF YORK

On this the 19th day of July, 2000, before me, the undersigned Notary Public, personally appeared Herbert D. Watkins, who, acknowledged himself to be a Contracting Officer for the U.S. Department of Energy, the government agency named in the foregoing instrument, and that he as such officer, being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing his name.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.


Notary Public



STATE OF PENNSYLVANIA

SS

COUNTY OF YORK

On this the 19th day of July, 2000, before me, the undersigned Notary Public, personally appeared John Doering, Jr., who, acknowledged himself to be a Vice President of PECO Energy Company, the corporation named in the foregoing instrument, and that he as such officer, being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing his name.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Janet L. Wiley
Notary Public

NOTARIAL SEAL
JANET L. WILEY, NOTARY PUBLIC
PEACH BOTTOM TWP., YORK COUNTY, PA
MY COMMISSION EXPIRES JUNE 17, 2002